



**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Introduce Ordinance Amending Lodi Municipal Code Title 12 –Streets, Sidewalks and Public Places by Adding Article VI, “Waterfowl and Migratory Birds”.

**MEETING DATE:** January 18,2006

**PREPARED BY:** Janice D. Magdich, Deputy City Attorney

**RECOMMENDED ACTION:** That the City Council introduce Ordinance Amending Lodi Municipal Code Title 12 – Streets, Sidewalks and Public Places by adding Article VI “Waterfowl and Migratory Birds.

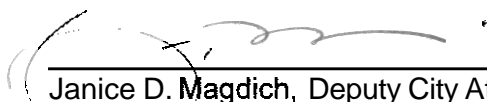
**BACKGROUND INFORMATION:** At the August 9, 2005 Shirtsleeve Session, Council and staff discussed the water quality of Lodi Lake. A copy of the Lodi Lake Water Quality Report, dated August 4, 2005 and presented to the Council at the August 9<sup>th</sup> Shirtsleeve Session is attached.

Staff estimates that during the past few years some 130 – 150 Canada geese have made Lodi Lake their permanent home. Staff believes that the resident geese are contributing to the high levels of fecal coliform bacteria counts resulting in the closure of the Lake to swimmers on numerous occasions.

U.S. Fish and Wildlife Services Non-migratory Bird Division staff advise that feeding waterfowl and migratory birds increases the potential for damages to the flora and fauna of public parks and lakes due to an accumulation of bird droppings, may harm water quality, increase the potential for the spread of diseases to City residents, causes nutritional problems for the waterfowl and migratory bird populations and increases the spread of diseases among the birds. Accordingly, the proposed Ordinance will prohibit the feeding of any waterfowl or migratory birds in any public park or upon any public lake.

The proposed Ordinance was drafted with the input and concurrence of the Parks & Recreation Director and Fish and Wildlife Services.

**FUNDING:** Not applicable.

  
Janice D. Magdich, Deputy City Attorney

**Attachments**

cc: Tony Goehring, Parks & Recreation Director  
Steve Outra, Parks Superintendent

**APPROVED:**   
Blair King, City Manager

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LODI AMENDING LODI MUNICIPAL CODE, TITLE 12,  
CHAPTER 12.12 – PARKS – BY ADDING ARTICLE VI,  
“WATERFOWL AND MIGRATORY BIRDS”

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 12, CHAPTER 12.12 – PARKS – is hereby amended by adding Article VI, “WATERFOWL AND MIGRATORY BIRDS,” to read as follows:

ARTICLE VI

WATERFOWL AND MIGRATORY BIRDS

Sections:

- 12.12.510 – Purpose
- 12.12.520 – Definitions
- 12.12.530 – Prohibited Conduct
- 12.12.540 – Violations and Penalties
- 12.12.550 – Enforcement

12.12.510 – Purpose.

- A. The purpose of this Article is to protect the health, safety, and welfare of the City and its wildlife by prohibiting the feeding of waterfowl and migratory birds within City parks and lakes. Feeding waterfowl and migratory birds increases the potential for damage to the flora and fauna of public parks and lakes due to an accumulation of bird droppings, may harm water quality, and increase the potential for the spread of disease to City residents.
- B. It is also the purpose of this Article to protect the welfare of the waterfowl and migratory birds themselves, as wildlife studies have shown that feeding waterfowl and migratory birds can interrupt their normal migration patterns, cause nutritional problems, and promote the spread of bird diseases.
- C. It is also the purpose of this Article to minimize the attraction to waterfowl and migratory birds of residing within City parks and lakes by restricting their feeding and other acts that encourage the birds to halt their natural migration patterns.

12.12.520 – Definitions.

As used in this Article, the terms listed below shall have the meaning assigned them.

“Feed” or “Feeding” means the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled corn, shucked or unshucked, wheat or other grains, breads, popcorn, scraps, salt, or any other feed or nutritive substances likely to be eaten by waterfowl or migratory birds, in any manner or form, so as to lure, attract, or entice waterfowl or migratory birds to, on or over any such areas where such feed items or materials have been placed, exposed, deposited, distributed, or scattered.

“Waterfowl and Migratory Birds” means those species of birds commonly known as “swans,” “geese,” and “ducks” and any other waterfowl or migratory birds under the jurisdiction of the United States Fish and Wildlife Service.

#### 12.12.530 – Prohibited Conduct.

A. It shall be unlawful for any person to feed, in any public park or upon any public lake, or on any other property owned or operated by the City, any waterfowl or migratory birds.

B. It shall be unlawful to create or foster any condition or allow any condition to exist or continue, which results in a congregation or congestion of waterfowl or migratory birds in any public park or upon any public lake.

#### 12.12.540 – Violations and Penalties.

A. Any person violating the provisions of this Article shall be guilty of an infraction, punishable on conviction as set forth in Section 1.08.010(C) of this Code.

B. Any person convicted of three or more violations of this Article within the twelve-month period immediately proceeding the commission of the latest offense shall have the offense charged as a misdemeanor, punishable as specified in Section 1.08.010(B) of this Code.

C. The continuation of any violation of this Article for each successive day shall constitute a separate offense, and the person committing the violation may be punished for each separate offense as provided herein.

D. Notwithstanding any other provision of this Article, the violation of any provision of this Article may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

#### 12.12.050 – Enforcement.

This Article may be enforced by a City Police Officer, Animal Control Officer, Code Enforcement Officer, or the Parks and Recreation Director or his/her designee.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the “Lodi News-Sentinel,” a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2006

\_\_\_\_\_  
SUSAN HITCHCOCK  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk  
=====

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held January 18, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2006, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES; COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Approved as to Form:

SUSAN J. BLACKSTON  
City Clerk

D. STEPHEN SCHWABAUER  
City Attorney

By \_\_\_\_\_  
Janice D. Magdich  
Deputy City Attorney

\_\_\_\_\_



Dear Steve

Thank you very much for your letter.

I have enclosed some photos of where we

Parks and Recreation Department

Creating community through people, parks & programs

feed the geese, ducks, seagulls, etc. My wife is in the wheelchair.

Note that we are on the remote side of the

January 10, 2006

Lake. Sincerely,

Ernest A. Bronske

Mr. Ernest Bronsky  
P O Box 1349  
Woodbridge CA 95258

RE: Feeding Wildlife

Dear Mr. Bronsky:

I want to thank you for your interest in the many challenges we face at Lodi Lake Park. We are very interested in hearing everyone's concerns. We expect the community to have concerns. I was very encouraged by the conversation we did have. Our goal is not to take away the many recreational opportunities that are available at Lodi Lake Park. We, in fact, hope to improve the recreational opportunities at the facility.

The fact is, last summer we had a very large amount of geese at Lodi Lake Park. After countless hours of research, staff has determined that we need to attempt to try to find ways to modify the behavior of the geese and other waterfowl at the park. One of the many options we are recommending to the City Council is not allowing the public to feed the waterfowl at the park. The flyer I am providing you points out six very good reasons why feeding park wildlife is harmful to the animals.

I hope that the community will support this effort

Again, thank you for your concerns. You have asked me to relay your concerns to Council. It may be best that you send me your comments in writing. In that way I can make sure the information is relayed correctly.

I have enclosed my business card for your convenience

Sincerely,

Steve Dutra

Steve Dutra  
Park Superintendent

SD:tl

Enclosures

125 A. Stockton Street  
Lodi CA 95240

Website: [www.lodi.gov](http://www.lodi.gov)

(209) 333-6742  
FAX: (209) 333-0162

FILED 1-18-06 Item K-6